

September 2003

Update: Crime Victim Rights Manual

CHAPTER 8

The Crime Victim at Trial

8.10 Expert Testimony on the Psychological Effects of Battering and Criminal Sexual Conduct

Insert the following note in the middle of page 176 before the second bullet:

Note: Effective September 1, 2003, MRE 703 requires that the facts or data on which an expert's opinion is based be admitted into evidence at trial. MRE 703 now provides:

“The facts or data in the particular case upon which an expert bases an opinion or inference shall be in evidence. This rule does not restrict the discretion of the court to receive expert opinion testimony subject to the condition that the factual bases of the opinion be admitted in evidence thereafter.”

Former rule 703 left to the trial court's discretion the decision whether facts or data “essential” to an expert's testimony must be admitted into evidence. The Staff Comment to Administrative Order No. 1999–10, which amended MRE 703, states that the “modification of MRE 703 corrects a common misreading of the rule by allowing an expert's opinion only if that opinion is based exclusively on evidence that has been introduced into evidence in some way other than through the expert's hearsay testimony.”

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8.11 Admissible Hearsay Statements by Crime Victims

C. Statements of Existing Mental, Emotional, or Physical Condition

Insert the following language on page 186 after the first sentence of the second paragraph:

Hearsay testimony regarding the victim's intention of meeting the defendant on the night she was killed was properly admitted under MRE 803(3) as evidence relevant to the victim's plan to meet the defendant at her apartment on the night of her death. *People v Coy*, ___ Mich App ___, ___ (2003). In *Coy, supra*, the victim's roommate testified that the victim had asked her to page the defendant to remind him of their plan to meet at the victim's apartment the night she was killed. *Coy, supra* at ___. The roommate's testimony made it more probable than not that the victim and the defendant were acquainted and that the defendant was permitted entry into the victim's apartment where there was no evidence of forced entry. *Coy, supra* at ___.